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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Model Indian Juvenile Code

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Indian Affairs is announcing availability of the final version of the updated 2016 Model Indian Juvenile Code. The updated Model Indian Juvenile Code is intended as a tool to assist Indian Tribes in creating or revising their juvenile codes.

FOR FURTHER INFORMATION CONTACT: Natasha Anderson, Deputy Associate Director, Tribal Justice Support Directorate, Office of Justice Services, Bureau of Indian Affairs, (202) 513-0367 or BIA_Tribal_Courts@bia.gov.

SUPPLEMENTARY INFORMATION

I. Background

The BIA initially contracted with the National Indian Justice Center to develop the first Code in 1988 after the passage Public Law 99-570, title IV, section 4221, which required the creation of a “Model Indian Juvenile Code” (25 U.S.C. 2454).

Most codes should be updated on a regular basis; and it has been over 25 years since the initial Model Indian Juvenile Code was created. Additionally, after the passage of the Tribal Law and Order Act of 2010, a Memorandum of Agreement among DOI, DOJ, and DHHS was developed to establish a framework for collaboration that results in the coordination of resources

and programs. The MOA specifically referenced 25 U.S.C. 2454 and the Model Indian Juvenile Code.

Since the creation of the initial Model Indian Juvenile Code, much has changed in the field of juvenile justice. Since the late 1980s, many jurisdictions have engaged in reforms of their juvenile justice systems in response to research finding that the standard juvenile justice system model used in the United States showed no impact to juvenile delinquency and may have, in fact, increased delinquency rates. Research has also found that adolescent brains develop later in life than previously thought. Researchers, advocates and policy makers urge changes to the more punitive models of juvenile justice and encourage systems that are more restorative.

After contracting with the Center of Indigenous Research & Justice (CIRJ), the BIA shepherded an “information gathering phase” beginning with a workshop to discuss a plan of action in updating the Code, at the Office on Victims of Crime’s National Indian Nations Conference in Palm Springs, California on December 12, 2014. In April 2015, BIA made available a Discussion Draft on the BIA website for review and comment. The CIRJ contractor presented details on the Discussion Draft at the 2015 Annual Federal Bar Indian Law Conference. The BIA held a listening session on the Discussion Draft at the 2015 National Congress of American Indians’ Mid-Year Conference in Saint Paul, Minnesota. NCAI hosted a follow-up webinar in November 2015 on Juvenile Justice with a focus on the principles of the Model Indian Juvenile Code update.

On February 24, 2016, the BIA announced the availability of the Draft 2016 Model Indian Juvenile Code for Consultation. Four telephonic Tribal consultation sessions were held on March 30–31 and April 13–14, 2016 in addition to an in-person listening session on April 6, 2016, at the Annual Conference of the National Indian Child Welfare Association. Written

Comments were also accepted with a deadline of May 27, 2016.

II. Summary of the Model Indian Juvenile Code

The 2016 Model Indian Juvenile Code is divided into three categories: 1) Delinquency; 2) Child in Need of Services; and 3) Truancy.

The 2016 Model Indian Juvenile Code focuses on several principles including, but not limited to:

- Ability to divert out of formal process at each decision point;
- Embeds right to counsel for juveniles in delinquency/truancy;
- Restricts use of detention;
- Commentary on choices made in the code and discussion of options for implementation—including diversion examples;
- Distinguishing between delinquent acts and need for services;
 - For delinquent acts, focus on supervision, treatment and rehabilitation;
- Process ensuring rights of parties; and
- Coordination of services.

We have considered the comments received on the draft; and now issue the updated and annotated Model Indian Juvenile Code available at: <http://www.bia.gov/cs/groups/xojs/documents/document/idc2-047015.pdf> or by contacting the person listed in the FOR FURTHER INFORMATION CONTACT section of this notice. The updated Code is available in both an Annotated PDF and a Microsoft Word version which can be adapted for each Tribe's needs. Further information is available on the Tribal Justice Support Directorate's page at <http://www.bia.gov/WhoWeAre/BIA/OJS/ojs-services/ojs-tjs/index.htm>.

Dated: October 7, 2016.

Lawrence Roberts,
Principal Deputy Assistant Secretary – Indian Affairs.
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